

## REMARKS

Applicants thank the examiner for the courtesy in providing a telephonic interview to Applicants representative on September 12, 2005. Applicants summarize herein the points of differentiation discussed during the interview.

Claims 1-21 are pending in the application, with claims 1, 9, and 15 as being the independent claims. Claims 11-14 have been withdrawn from consideration. In summary of the outstanding Office Action, claims 1, 3, 15, and 17 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 2, 4, 7-10, 15, 16, 18, and 21 stand rejected under 35 U.S.C. § 102(a) as being anticipated by drugstore.com. Claims 3, 5, 6, 17, 19, and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over drugstore.com in view of U.S. Patent No. 6,766,320 (Wang et al.).

### *Claim Rejections – 35 USC § 112*

Claims 1, 3, 15, and 17 have been rejected under 35 U.S.C. § 112, second paragraph.

In particular, the examiner indicated the clause *where a predetermined number of unmet need submissions have the same primary topic* in claims 1 and 15 is indefinite because the clause is disconnected from whatever is being referenced in the clause. Applicants have amended the claim language and submit that claims 1 and 15, as amended, are definite.

Regarding claim 3, the examiner indicated that the clause *the unmet need having a predetermined number of unmet need submissions* was not recited in claim 1. Applicants have amended claim 3 and submit that the claim, as amended, is definite.

Claim 17 has been canceled.

*Claim Rejections – 35 USC § 102*

Claims 1, 2, 4, 7-10, 15, 16, 18, and 21 stand rejected under 35 U.S.C. § 102(a) as being anticipated by drugstore.com. In particular, the examiner indicated that the feature upon which the applicant relied in the previous response, “i.e., when the number of submissions for an unmet need, e.g., gynecology, has exceeded a predetermined number, that unmet need may be selected for the development of related medical products” are note recited in the rejected claims. Action at p. 5. Applicants submit that the language in the claim reciting “development” would properly be construed to be the development of a medical product. Nevertheless, applicants have amended the claim to make the language of the claim more clear that the claimed *development* relates to the development of a medical product related to the *selected* (claim 1) or *categorized* (claim 15) unmet need. As such, the applicants submit that the claims as amended patentably define over drugstore.com.

As amended, claim 1 recites *selecting an unmet need for development of a medical product related to the selected unmet need where a predetermined number of the unmet need submissions have the same primary topic*. By contrast, drugstore.com merely discloses processing submitted questions “to make available answer to the user” as noted by the in the office action, p. 7). Applicants submit that, while drugstore.com suggests processing user submitted questions to make available answers to the user, such a process is not the same as the claimed selecting an unmet need for development of a medical product related to the selected unmet. Such a limitation is simply absent from drugstore.com. Therefore, at least for the aforementioned reasons, all of the limitations of claim 1 are not taught or suggested by drugstore.com and therefore the claim cannot be anticipated.

Similar limitations are found in claims 9 and 15 that patentably define over drugstore.com. For example, claim 9, as amended, recites in part:

accepting an electronic submission indicative of an unmet need for the medical products whereby unmet needs related to the medical products may be determined for the development of a medical product related to the unmet need.

Similarly, claim 15, as amended, recites in part:

means for categorizing the unmet need according to a primary topic whereby an unmet need for development of a medical product related to the categorized unmet need may be identified where a predetermined number of the unmet need submissions have the same primary topic.

As such, all of the limitations of claim 9 and 15 are not taught by drugstore.com and therefore claims 9 and 15 cannot be anticipated.

Claims 2, 4, and 7-8 depend from claim 1, and are believed allowable for at least the same reasons as described above with respect to claim 1. Similarly, claim 10 depends from claim 9 and claims 16, 18, and 21 depend from claim 15, and are believed allowable for at least the same reasons as described above with respect to claims 9 and 15. Accordingly, reconsideration and withdrawal of the rejection of claims 1-2, 4, 7-10, 15-16, 18, and 21 is respectfully requested.

*Claim Rejections – 35 USC § 103*

Claims 3, 5, 6, 17, 19, and 20 were rejected under 35 USC § 103(a) as being unpatentable over drugstore.com in view of Wang (as cited above).

Inasmuch as claims 3, 5, and 6 depend from independent claim 1, and inasmuch as claims 17, 19, and 20 depend from independent claim 15, Applicants submit that claims 3, 5, 6, 17, 19, and 20 also define over the prior art of record. Accordingly, reconsideration and withdrawal of the rejection to claims 3, 5, 6, 17, 19, and 20 based on Section 103 is respectfully requested.

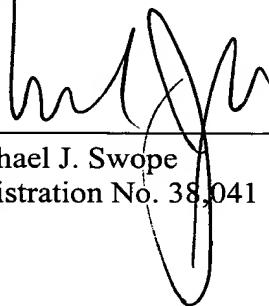
**DOCKET NO.:** JJ-0102 (GYN-082)  
**Application No.:** 09/879,382  
**Final Office Action Dated:** July 29, 2005

**PATENT**

### **CONCLUSION**

Applicants believe that the present Amendment is responsive to each of the points raised by the Examiner in the Office Action, and submit that claims 1-10 and 15-21 of the application are in condition for allowance. Favorable consideration and passage to issue of the application at the Examiner's earliest convenience is earnestly solicited.

Date: September 19, 2005

  
Michael J. Swope  
Registration No. 38,041

Woodcock Washburn LLP  
One Liberty Place - 46th Floor  
Philadelphia PA 19103  
Telephone: (215) 568-3100  
Facsimile: (215) 568-3439